

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

**§ 18360. Complaints Filed with the Commission.**

The Enforcement Division of the Commission receives complaints and referrals from a variety of sources and pursues matters proactively.

(a) Requirements for filing a complaint or referral.

(1) A complaint or referral must:

(A) Be filed with the Enforcement Division via the Electronic Complaint System available on the Commission's website.

(B) Identify the person(s) who allegedly violated the Act (if known) and the specific provision(s) of the Act allegedly violated.

(C) Describe with as much particularity as possible the facts constituting each alleged violation.

(D) State the facts that support the complainant's belief that a person has violated the Act and include any documents or other evidence supporting this conclusion.

(E) Include or describe with as much particularity as possible evidence or means of obtaining evidence in support of the complaint.

(F) Include the name and current contact information of any potential witness (if known).

(2) A sworn complaint must be electronically signed and submitted under penalty of perjury.

(3) A referral must include:

(A) Current contact information for the person or entity referred.

(B) Current contact information for the agency with which the person or entity files.

(C) Information regarding any attempt the referring entity made to obtain compliance, including copies of at least two written notices and the email address, mailing address, or telephone number at which the referred person or entity was contacted. Attempts to contact a referred person who has left office or is no longer at an agency should be made to a personal email address, home mailing address, or personal telephone number known by the filing officer if the filer cannot be contacted through an agency email address, telephone number, or mailing address.

(D) For campaign non-filer referrals, also include:

(i) A copy of the most recently filed campaign statement, if any, including all relevant schedules.

(ii) Committee name and identification number and, in the case of a candidate-controlled committee, the candidate's name.

(iii) Office sought or held, if applicable.

(iv) The name of the committee's treasurer.

(v) Current contact information for the committee, candidate if applicable, and the committee's treasurer.

(vi) Filing methods available to the filer at their agency, such as paper or electronic filing.

(E) For statement of economic interests non-filer referrals, also include:

(i) A copy of the most recently filed statement of economic interest, if any.

(ii) A copy of the agency's conflict of interest code in the case of Section 87300 filers.

(iii) Any personal contact information for the filer such as a personal email address, home mailing address, or personal telephone number in the possession of the filing officer if the filer has left office or is no longer employed by the agency and can no longer be contacted through an

agency email address, telephone number, or mailing address. If the filing officer does not have any personal contact information for the filer, the filing officer shall make best efforts to obtain personal contact information for the filer, including requesting the information from the filer.

(iv) Indication of whether the filer is still in office or employed by the agency. If the filer is on leave, also provide that information along with expected return date, if known.

(4) Before making a referral to the Enforcement Division, the filing officer shall attempt to contact the filer by telephone at least once.

(5) If a filing officer subsequently receives a filing from a referred candidate, committee, or statement of economic interests filer, the filing officer must notify the Enforcement Division within 7 days of receipt of the filing.

(b) Procedural rights for a sworn complaint. The following procedures only apply to a sworn complaint filed under penalty of perjury:

(1) Notice. Within three business days of receipt of a sworn complaint, the Enforcement Division will provide each person who the complaint alleges violated the Act a copy of the complaint and notice that the person may respond to the complaint. This is not required if the complaint is rejected within the three-day period. The Enforcement Division may withhold notice of a complaint or the identity of the complainant if the Enforcement Division Chief determines that disclosing the information would jeopardize the investigation, or if the complaint is rejected within the three business days.

(2) Notice to complainant of intended action. Within 14 calendar days of receiving a sworn complaint, the Enforcement Division will notify the complainant in writing that it will do one or more of the following in response to the complaint: open a case, refer the matter to another agency, take no action, take additional time to make a determination, or take any action

the Enforcement Chief deems appropriate. Subsequent notice will be provided if more time is required.

(3) Reconsideration of intended action. If the person who filed the sworn complaint disagrees with the Enforcement Division's intended action, other than needing additional time to consider, the person may submit in writing, within 20 calendar days of receipt of the response, a request for reconsideration to the Executive Director of the Commission. The Executive Director may deny the request, or based on good cause, direct the Enforcement Division Chief to take specified action consistent with the Act and its regulations. The Executive Director will provide the complainant written notice of the decision within 20 calendar days of receipt of the request. However, if the complainant provides new information or allegations in the request for reconsideration, this will be considered a new complaint and not a request for reconsideration.

(4) Notice to subjects of a sworn complaint. The Enforcement Division will send a copy of the notice of intended action to any person the complaint at issue alleges violated the Act at the same time it is sent to the complainant, unless the Enforcement Division Chief determines that providing the person with notice of the complaint would jeopardize the investigation.

(5) Notice of resolution. The Enforcement Division will send a notice of resolution to each complainant who filed a sworn complaint with the Commission and was notified that the Enforcement Division would investigate the allegations in the complaint.

(c) Commission initiated case. All matters that do not result from a sworn complaint, including proactive investigations, referrals, nonsworn and anonymous complaints, are opened on the Commission's initiative under Section 83115. The Enforcement Division will determine whether to open Commission initiated investigations.

(1) Notice of Commission initiated case. The Enforcement Division will send notice, as well as a copy of any document submitted to the Enforcement Division, to any identified subjects of a Commission initiated case when opening a case based upon that information.

(2) The Enforcement Division may withhold any document, the identity of any person providing information, or the notice and existence of a matter if the Enforcement Division Chief determines disclosing the information would jeopardize the case, or if the information is privileged, private or confidential.

(3) No notice is required to be sent to the provider of the information regarding whether a case has been opened or its resolution. For filing officer referrals, the Enforcement Division may notify the filing officer regarding the outcome of the referral.

(d) Public Information. The Commission will post on its website and respond to requests from the public for records and information about all Enforcement matters as follows:

(1) When the Commission receives a complaint or referral alleging a person violated the Act, or if a case is opened on the Commission's own initiative, the Commission may provide the following information and records two days after sending via email notice of the alleged violation to the person alleged to have violated the Act or five days after sending such notice via physical mail:

(A) Confirmation of receiving a complaint or referral;

(B) Copies of the respective complaint, referral, information, notification, or letter of inquiry;

(C) Copies of any document received from a complainant or referring agency; and

(D) Copies of any documents reviewed by the Enforcement Division in making a determination to open a case.

(2) The Commission may disclose the action the Enforcement Division intends to take on a complaint or referral two days after providing notice of the intended action to the sworn complainant via email or five days after providing notice via physical mail. However, if the Enforcement Division intends to take no action, the Commission may disclose that fact immediately.

(3) The Commission may disclose the scheduling or result of any step in an administrative action.

(4) The Commission may not comment on specific facts or provide analysis relating to an Enforcement matter when responding to requests for information regarding a pending Enforcement matter. The Commission may provide general information regarding the provisions of the Act and Section 1090 without analyzing the potential application of those provisions to the facts of a specific Enforcement matter.

(5) The Commission may withhold any document, the identity of any person providing information, or the existence of a complaint or case if the Enforcement Division Chief determines that disclosing the information would jeopardize the matter, or the information is privileged, private or confidential.

(e) Complaints Rejected without Notice to Respondents. Duplicate complaints or referrals submitted by the same complainant or filing officer may be rejected without notice. A nonsworn or anonymous complaint that the Chief of Enforcement determines fails to allege facts that could result in a violation of the Act may be rejected without notice. A complaint or referral rejected pursuant to this subdivision will not be posted on the Commission website.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83115, Government Code.

## HISTORY

1. New section filed 10-9-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 41).
2. Amendment filed 5-22-78; effective thirtieth day thereafter (Register 78, No. 21).
3. Amendment of subsection (g) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
4. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
5. Editorial correction of subsection (f) filed 10-29-82 (Register 82, No. 44).
6. Amendment of subsection (g) filed 9-24-2007; operative 10-24-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 39).
7. Amendment filed 6-11-2008; operative 6-11-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2008, No. 24).
8. New subsection (f)(2), subsection renumbering and amendment of newly designated subsections (f)(3)-(4) filed 7-6-2011; operative 8-5-2011. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924,

California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2011, No. 27).

9. Amendment of subsections (f)(1), (f)(1)(E), (f)(3)-(4) and (h) filed 12-7-2011; operative 1-6-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2011, No. 49).

10. Repealer and new section heading and section filed 12-15-2015; operative 1-14-2016. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 51).

11. Repealer and new section filed 11-16-2020; operative 1-1-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 47).

12. Amendment of subsection (a)(3)(C), new subsections (a)(3)(D)-(a)(5), amendment of subsection (d), repealer of subsections (d)(1)-(2), new subsections (d)(1)-(d)(4), subsection



renumbering and amendment of newly designated subsection (d)(5) filed 8-22-2022; operative 9-21-2022 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2022, No. 34).